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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,423	09/30/2003	Evgeny Roytman	EMC03-15(03085)	9705

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EXAMINER

RIAD, AMINE

ART UNIT	PAPER NUMBER
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2113

DATE MAILED: 05/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,423

Applicant(s)

ROYTMAN ET AL.

Examiner

Amine Riad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters; prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10, 12, 15-17, 22 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 5-9, 11, 13, 14, 18-21 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers


- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Claims 1-27 have been presented for examination.

Claims 1,2,3,4,10,12,15,16,17,22,25,26, and 27 have been rejected.

Claims 5,6,7,8,9, 11,13,14,18,19,20,21,23, and 24 have been objected to.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

Claims 1, 25, 26 and 27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In regard to claims 1, 25, 26 and 27,

The language of the claims raise a question as to whether the claims are directed merely to an abstract idea that would not result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. Claims 1, 25, 26 and 27 fail to positively recite that the primary agent perform a tangible function. The claims recite, "Inform the determined primary agent". The fact that primary agent is being informed or told about the responsibilities, to be carried, does not make the primary perform or execute those responsibilities.

Consequently the primary does not perform a tangible result just by being informed.

In regard to claim 26,

Claim 26 recites a signal, which is a form of energy that is nonstatutory because it does not appear that a signal, encoded with functional descriptive material falls with any

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the categories of patentable subject matter set forth in § 101. A claimed signal is clearly not a process under § 101 because it is not a series of steps.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,2,4,10,12,15,16,22,25,26, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Pickering US Patent 6,493,695.

Examiner notes: Pickering discloses an invention dealing with assigning agents to callers in a call center environment, and not in a SAN (storage area network) as described by applicant; nevertheless the claimed invention as recited by the independent claims are anticipated by Pickering, because the claims have broad scope and read on the reference.

In regard to claims 1, 25, 26 and 27,

Pickering discloses a method for allocating and reallocating management responsibility of manageable entities to agents (Examiner considers that the manageable entities are the calls generated by customers and the agents are the agent representatives) in a managed information network comprising:

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- detecting a manageable entity requiring assignment of an agent for management responsibility of the manageable entity; (Column 3; lines 3-5)
- identifying a manageable entity type of the manageable entity requiring reassignment of management responsibility; (Column 3; lines 13-16)
- identifying a set of deployed agents in the managed information network, each of the agents having an agent type and operable to manage at least one manageable entity of a particular manageable entity type; (Column 3; line 17)
- applying failover rules using the identified type of the manageable entity, the agent type of the managing agent and the compatibility associations to determine a primary agent from among the identified set of deployed agents for managing the manageable entity; (Column 3; lines 25-32)
- informing the determined primary agent of the responsibility for managing the manageable entity. (Column 3; lines 61-62 "The agent task thereby being assigned to the selected agents")

In regard to claims 2, and 16,

Pickering discloses the method of claim 1 further comprising defining the failover rules, the failover rules for designating, based on the type of the agent, failover agents types operable to manage the manageable entities corresponding to the

agent type, the failover rules further responsive to compatibility associations between the manageable entity types and the agent types. (Column 4; lines 13-16)

In regard to claim 4,

Pickering discloses the method of claim 2 wherein defining the failover rules further comprises defining an ordered set of rules, the ordered set of rules following a precedence. (Column 3; lines 29-31) In this passage Pickering cites rules which inherently follow the order of precedence.

In regard to claim 10, and 22

Pickering discloses the method of claim 1 wherein detecting a manageable entity operable for assignment is preceded by steps comprising: monitoring the status of existing agents; and at least one of; detecting availability of an existing agent. (Column 8 ;lines 66-67 to prevent another agent from handing the same customer inherently detects the availability of agent 226)

In regard to claim 12,

Pickering discloses the method of claim 1 wherein the agent types further include a hybrid agent operable to manage manageable entities of a plurality of manageable entity types. (Column 7; lines 55-58)

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In regard to claim 15,

Pickering discloses a network management server having a network management application for allocating and reallocating management responsibility of manageable entities to agents in a managed information network comprising:

a failover processor, (Figure 5; item 502)

a memory (Figure 5; item 504)

an interface operable to communicate with agents, manageable entities, and network elements, (Figure 2; item 222)

- the failover processor operable to detect a manageable entity requiring assignment of an agent for management responsibility of the manageable entity; (Column 3; lines 3-5)
- a compatibility association table for identifying a manageable entity type of the manageable entity requiring reassignment of management responsibility; an agent configuration table operable to store information to identify a set of deployed agents in the managed information network (Figure 2; item 228), each of the agents having an agent type and operable to manage at least one manageable entity of a particular manageable entity type; (Column 3; lines 13-16 a set of failover rules, the failover processor operable to apply the failover rules using the identified type of the manageable entity, the agent type of the managing agent and the compatibility associations to determine a primary agent from among the identified set of deployed agents for managing the manageable

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entity, the failover processor further operable to inform the determined primary agent of the responsibility for managing the manageable entity. (Column 3; lines 25-32)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pickering in view of Cohen US Patent Application Publication 2002/0067822.

In regard to claims 3, and 17,

Pickering discloses the method for allocating and reallocating management responsibility, and also discloses the failover rules as discussed in parent claims 1 and 2.

Pickering does not disclose that an ordered failover chain of agent types compatible to manage the manageable entities corresponding to the identified agent type is defined for each identified agent type, and that the ordered failover is indicative of a priority of agent types, and the compatibility is determined by the compatibility associations.

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Cohen teaches this feature. (Page 2; paragraph 15 "each agent's skills are prioritized according to his or her level of expertise in that skill, and agents may be" this expertise level is considered as a priority of agents types)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate an ordered failover chain of agent types feature of Cohen in the managed information network of Pickering.

One of ordinary skill in the art at the time the invention was made would have been motivated to make the combination because, Cohen discloses in the Background (Page 1; paragraph 2) "it allows each agent to be placed into a number of different service categories based on the skill types supported by that agent".)

Allowable Subject Matter

Claims 5,6,7,8,9, 11,13,14,18,19,20,21,23, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Patent application publication 6,763,104 teaches most of the limitations, but misses choosing the primary agent, on the other hand U.S. Patent Application Publication 2004/0213400 contains some elements, but lacks important element, which is associating the agents with the manageable entities. See PTO 892.

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Contact


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amine Riad whose telephone number is 571-272-8185.

The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on 571-272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AR
Amine Riad
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